

Message Text

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ACTION NEA-11

INFO OCT-01 ISO-00 DEAE-00 CIAE-00 INR-10 IO-13
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FRB-03 XMB-02 OPIC-03 SP-02 LAB-04 SIL-01 SS-15
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FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC 1490
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E.O. 11652: N/A
TAGS: EINV
SUBJECT: GOI DRUG POLICY

REF: NEW DELHI 4939

1. COMPREHENSIVE ANALYSIS OF THE GOI POLICY BY US DRUG FIRMS HAS BEEN SLOW IN EMERGING. FOR TWO WEEKS, AFTER TABLING OF POLICY IN LOK SABHA MARCH 29, FIRMS PONDERED DRUG POLICY IN BOMBAY DURING EXECUTIVE MEETINGS OF ORGANIZATION PHARMACEUTICAL PRODUCERS OF INDIA (OPPI) AND THEN DURING LAST WEEK OF APRIL CERTAIN REPS, INCLUDING AMAR SINGH OF WYETH, CAME TO DELHI FOR TALKS WITH SECRETARY CHEMICALS AND FERTILIZERS S. KRISHNASWAMI.

2. IN GENERAL, DRUG REPS CONSIDERED NEW POLICY TO BE VERY HARSH AND NEGATIVE BY ANY STRETCH OF IMAGINATION. CONTRARY TO SELF-PROFESSED CLAIM OF POLICY, THEY BELIEVE NOTHING
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CONTAINED IN IT WHICH CAN BE CONSIDERED AS INCENTIVE TO GROWTH.

3. US DRUG REPS CLAIM THAT FOR ALL PRACTICAL PURPOSES, DRUG INDUSTRY HAS BEEN REMOVED FROM APPENDIX I OF FOREIGN EXCHANGE REGULATIONS ACT (FERA) (WHICH ALLOWED FOREIGN FIRMS RETAIN 74 O/O EQUITY IF IN "HIGH TECHNOLOGY" GROUP).

DRUG REPS FEAR GOI COMMITTEE TO BE ESTABLISHED TO EXAMINE HIGH TECHNOLOGY QUESTION WILL BE PREJUDICED AGAINST DRUG FIRMS. FURTHERMORE, DRUG REPS STATE, UNDER GENERAL FERA GUIDELINES FOREIGN FIRMS IN GENERAL ARE GIVEN OPPORTUNITY COMPLY WITH HIGH TECHNOLOGY REQUIREMENTS THROUGH NEW MANUFACTURE, WHEREAS WITH DRUG FIRMS THAT OPTION TAKEN AWAY. FURTHER GOI PREJUDICE SHOWN, THEY BELIEVE, BY "DOUBLE JEOPARDY" ASPECT OF NEW POLICY. EXISTING PRODUCTION PROGRAMS OF DRUG FIRMS, THEY CLAIM, WERE IN CONSONANCE WITH GOI GOALS IN ORDER TO HAVE BEEN GIVEN ORIGINAL LICENSES. WHOLE COMMITTEE REVIEW PROCESS, THEY BELIEVE, WILL BE USED TO PUT FOREIGN FIRMS AT FURTHER DISADVANTAGE.

4. DRUG REPS ALSO PESSIMISTIC ABOUT REQUIREMENT FOR DISINVESTMENT OF TWO-THIRDS "BALANCE EQUITY" TO PUBLIC SECTOR INSTITUTIONS AND CONSIDER THIS PROVISION AS "THIN EDGE" TO GOI CONTROL, DESPITE ANY GOI PROTESTATIONS TO CONTRARY. (THIS PROVISION OF DRUG POLICY, THEY BELIEVE, IS CONSTITUTIONALLY QUESTIONABLE.) IF GOI WISHES TO PRESS FOR CONTROL FOREIGN FIRMS, DRUG SHARES ON OPEN MARKET CAN ALSO BE ACQUIRED BY PUBLIC SECTOR INSTITUTIONS FOR EVEN GREATER CONTROL OF EQUITY.

5. US DRUG FIRMS ALSO SEE PRICING POLICY AS PARTICULARLY HARSH WITH SHARP FALL IN PROFITABILITY A MAJOR RESULT, SINCE MANY US FIRMS PRODUCE DRUGS IN "LIFE SAVING" CATEGORY LIMITED OFFICIAL USE

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WHERE PRICES MARK-UP TO BE LIMITED TO 40 O/O-50 O/O OF COST. DRUG REPS ESTIMATE 70 O/O MARK-UP NEEDED TO BREAK EVEN IN CASE OF LARGE COMPANIES, WHILE 80 O/O REQUIRED BY SMALLER COMPANIES. WHILE GOI REASONS THAT COMPANIES CAN AVERAGE OUT PROFITS AT HIGHER FIGURE THROUGH DRUG CATEGORIES WHERE NO MARK-UP LIMITATIONS EXIST, DRUG REPS OBSERVE THAT NO FIRM "IN RIGHT MIND" CAN BE EXPECTED TO SELL ANY DRUG AT AN ACTUAL LOSS.

6. OWING TO HIGHLY RESTRICTED PROFITS FROM NEW GOI DRUG POLICY OR EVEN FORCED OPERATION AT LOSS, DRUG REPS PREDICT FEW, IF ANY, FIRMS WILL BE INTERESTED IN INVESTING IN PRODUCTION OF DRUG CATEGORIES ONE AND TWO. THIS APPLIES TO INDIAN, AS WELL AS FOREIGN COMPANIES. (ON PRICING, INDIAN DRUG FIRMS AS VEHEMENTLY OPPOSED TO GOI DRUG POLICY AS FOREIGN FIRMS). DRUG REPS MAINTAIN INITIAL RASH OF APPLICATIONS FOR NEW PRODUCTION (IN ORDER TRY MAINTAIN FERA APPENDIX ONE DESIGNATION AND 74 O/O FOREIGN EQUITY) DOES NOT ALTER REAL PICTURE AND THAT SIGNIFICANT NEW INVESTMENT WILL NOT BE ACHIEVED UNDER PRESENT POLICY.

7. R&D PROVISIONS NEW POLICY, PROVIDING THAT FIRMS WITH TURN-OVER OF MORE THAN 5 CRORES WILL BE OBLIGED TO MAKE ONE-

TIME EXPENDITURE OF 20 O/O OF NET FIXED ASSETS PLUS CONTINUING EXPENDITURE OF 4 O/O OF TURN-OVER, WAS ALSO FOUND EXTREMELY HARSH AND WILL FURTHER SERVE ELIMINATE PROFITS.

8. DURING WEEK OF MAY 1, DRUG REPS WENT OVER DETAILS OF DRUG POLICY WITH SECY S. KRISHNASWAMI, EXPRESSING FEARS AND RESERVATIONS OUTLINED ABOVE AND ASKING DETAILED QUESTIONS ON SEVERAL ASPECTS OF POLICY FOR WHICH KRISHNASWAMI AND HIS ADVISERS HAD NO IMMEDIATE ANSWERS. THIS SHOWED, IN OPINION OF DRUG REPS, THAT GOI HAD NOT PROPERLY THOUGHT OUT THE REPERCUSSIONS OF THEIR CONVOLUTED CONTROLS AND RESTRICTIONS.

9. ONLY MILDLY FAVORABLE ASPECT OF SESSIONS WITH KRISHNASWAMI LIMITED OFFICIAL USE

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SWAMI, ACCORDING TO DRUG REPS, IS FACT THAT HE LISTENED SERIOUSLY TO ARGUMENTS PRESENTED AND OFFERED ASSURANCES THAT ASPECTS OF DRUG POLICY WHICH FOUND TO BE UNWORKABLE WOULD BE CHANGED. DRUG REPS SATISFACTION WITH KRISHNASWAMI PROFESSED FLEXIBILITY TEMPERED, HOWEVER, BY THEIR KNOWLEDGE THAT HE WILL BE LEAVING HIS POST IN MIN. CHEMICALS AND FERTILIZERS IN NEAR FUTURE FOR POSITION IN BOMBAY. GOHEEN

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